



State of Utah

Department of Natural Resources

MICHAEL R. STYLER
Executive Director

Division of Oil, Gas & Mining

JOHN R. BAZA
Division Director

JON M. HUNTSMAN, JR.
Governor

GARY R. HERBERT
Lieutenant Governor

August 28, 2006

CERTIFIED RETURN RECEIPT 7004 2510 0004 1824 7807

Matt Carter
Timberline Rock Pit, LLC
P. O. Box 430
Bountiful, Utah 84011

Subject: Finding, Conclusion and Order from Informal Conference, Cessation Order MC-2006-01-02 (1), Timberline Rock Pit, LLC, Timberline Rock Pit Mine, S/049/053, Utah County, Utah

Dear Mr. Carter:

On July 11, 2006, the Division of Oil, Gas and Mining (OGM or Division) held an Informal Conference at the Division offices regarding Cessation Order MC-2006-01-02 issued at the Timberline Mine, S/049/053 in Utah County. The following individuals attended: Presiding: Mary Ann Wright, Associate Director, Mining; Lynn Kunzler, Senior Reclamation Specialist, Daron Haddock with OGM and mine representatives: Matt Carter, Tom Gyuro, John Carter.

The Findings and Conclusions and Order in this matter are based on information provided by the Division and Misters Carter and Gyuro in connection with this Conference and on information in the files of the Division.

FINDINGS & CONCLUSIONS

1. Cessation Order MC-2006-01-02 was issued 5/17/06 for 'Expanding operations beyond the 5-acre limit before having a large mining operation notice of intention submitted and approved.'
2. In an email letter received June 16, 2006, Mr. Gyuro requested an Informal Conference.
3. An Informal Conference was scheduled and properly noticed for July 11, 2006 and held at 9:00 am, in accord with R647 Rules.
4. The Division presented information and evidence including photographs of the mining that occurred at the Timberline location.

5. Timberline represented that they believe the mining that was occurring at the site was done by trespass and the Cessation Order was erroneously issued to Timberline who has not been mining.
6. The Division represented that the only area authorized for mining is a one acre parcel that was approved. Even though a NOI for a 5 acre site has been submitted and reviewed, final approval is pending the signing of a reclamation contract.
7. The Division represented that the landowner and permittee have responsibility for what happens on their property, which would include allowing other parties to operate on their property. However, since a Cessation Order had also been issued to DJN (the operator on the property), the Division would be willing to vacate the violation to Timberline, if certain requirements could be accomplished. These include: a) completing the signature page of the reclamation contract, b) providing written notice to DJN that they were no longer allowed to mine on the property, c) posting no trespassing signs at the entrance to the property so that no mining would occur, and d) paying the outstanding \$330 fine for MC-2005-01-18 (part 2 of 2).
8. Timberline represented that they no longer had a contract with DJN to operate the site and they would notify them that they were no longer allowed on the property. (On the afternoon of July 11, 2006 an email from Tom Gyuro was received at the Division offices with an attached letter addressed to Shawn Ney, which required them to cease mining.)
9. On August 1, 2006 Division representatives Lynn Kunzler and Daron Haddock visited the site and found that mining was still occurring. No signs had been posted on that date that would have prevented someone from trespassing on the property. One "no trespassing" sign was located near the road but it was face down in the dirt and was not visible from the road.
10. On August 2, 2006 the Division received from DJN Rockwalls a faxed letter that they had received from Tom Gyuro which was dated July 18th and gave authorization to DJN to remove and mine rock from Timberline's property, contrary to what had been agreed at the Informal Conference.
11. On August 10, 2006 the Division received the long requested signature page for the reclamation contract.
12. While some of the requirements to vacate the CO were completed, as of today August 23, 2006, Timberline has failed to complete all of the requirements agreed upon and the Cessation Order cannot be vacated. It is concluded by the Conference Officer that the Cessation Order is affirmed for conducting mining operations outside the permitted and bonded area.


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ORDER

1. Cessation Order MC-2006-01-02, issued May 17, 2006, is hereby affirmed.
2. The Cessation Order is modified to allow until September 25, 2006 for the submittal of the required Large Mine Notice of Intent, and the posting of signs.
3. Timberline will continue providing accurate and complete information to effect the completion of the permitting process with OGM as required by state law and rules.
4. The final assessment of the penalty will be provided to Timberline by the Division, once the abatement has been completed and the Cessation Order has been abated.

If you wish to appeal this Order to the Board of Oil, Gas and Mining, you may do so by contacting the Division within 30 days of receipt. Please contact Julie Carter, Secretary to the Board at (801) 538-5277. If you have any questions regarding this letter, please contact me at 538-5306.

Sincerely,


for Mary Ann Wright
Associate Director, Mining

VS

Cc:

Daron Haddock, DOGM

Lynn Kunzler, DOGM

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